

DETAILED OFFICE ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/09/2010 has been entered.

Claims 1-10 and 14 are pending. Claims 11-13 are cancelled. Claim 14 (Group III) is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 05/04/2009. Claims 1-10 are currently under examination.

Information Disclosure Statement

The information disclosure statement (IDS) submitted filed on 07/26/2010 is acknowledged and has been considered by the examiner.

Withdrawal of Claim Rejections

The rejection of claims 1-10 under 35 USC 101 because the claimed invention lacks patentable utility has been withdrawn in view of amendments made to the instant claims.

The corresponding rejection of claims 1-10 under 35 USC 112, first paragraph, is also withdrawn in view of amendments made to the instant claims.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Independent claims 1 and 2 have each been amended to recite "deriving an image from the frequency data, wherein variations in the frequency data result in inhomogeneities in the image indicating compositional inhomogeneities in the chemical sample". This causes the metes and bounds of the instant claim to be indefinite because the above cited limitation is only a recitation of an intended results and fails to convey the active process steps that a practitioner must perform in order to practice the claimed invention. Said limitation fails to recite any process steps that when practiced derive an image from a compilation of unspecified frequency data. This is further compounded by the fact that here is no recitation of any relationship in the claim

between the newly recited "chemical inhomogeneities" and the detected "radiation reflected from and/or transmitted" by an irradiated sample. This is further compounded by the fact that only an energetic range spanning over 5 orders (from 25 GHz to 100THz) is given to describe the irradiation of a sample under investigation. There is no recitation of the type of radiation incident to a sample, nor is there any recitation of the types of detected "radiation" that is ultimately "reflected and/or transmitted" back from an irradiated sample. The claims do not recite any associated apparatus or structure required to either irradiate a sample nor any associated apparatus required to detect "radiation reflected from and/or transmitted" by an irradiated sample. The above described deficiencies in the claims renders a search of the prior art unsearchable at this time in prosecution.

Response to Arguments

Applicant's arguments filed 12/09/2010 have been fully considered but moot in light of the new grounds of rejection presented above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ERIC S. DEJONG whose telephone number is (571)272-6099. The examiner can normally be reached on 8:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marjorie Moran can be reached on (571) 272-0720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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/ERIC S DEJONG/
Primary Examiner, Art Unit 1631